

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

RICHARD SIEVERS,

Petitioner,

v.

CIVIL ACTION NO. 5:10-cv-00360

DAVID BERKEBILE,

Respondent,

TERRY L. DOWELL,

Interested Party.

**ORDER**

The Court has reviewed Petitioner's Petition For Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Docket 1]. On May 2, 2011, the Court entered an Order declining the opportunity to rule on Petitioner's Petition and directing Respondent to file a limited response addressing Petitioner's claim based on the Bureau of Prisons' ("BOP") denial of his request to be immediately placed in a Residential Re-entry Center ("RRC") pursuant to 18 U.S.C. § 3621(b). On May 19, 2011, Respondent so responded.

Respondent asserted that Petitioner did not formally request placement in an RRC pursuant to § 3621(b) until April 14, 2011 – ten months after he filed objections to the magistrate judge's proposed findings and recommendation. (Resp. 2.) Attached to the response are documents evidencing this assertion, such as a declaration from Petitioner's case manager and a copy of Petitioner's "Inmate Request to Staff." Petitioner's request was considered and denied on May 18,

2011. In making this determination, the BOP properly considered the five factors set forth in 18 U.S.C. § 3621(b). Petitioner did not reply.

Inasmuch as the conduct Petitioner complained of in his Petition (namely, being denied placement in an RRC pursuant to 18 U.S.C. § 3621(b)) had not occurred at the time he filed his Petition, and, further, inasmuch as the BOP properly considered the relevant statutory factors in denying his request, the Court finds that Petitioner's claim must be dismissed.

Accordingly, it is **ORDERED** that the Magistrate Judge's Proposed Findings and Recommendation [Docket 10] be **ADOPTED**, Petitioner's Petition For Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Docket 1] be **DISMISSED** and that this matter be stricken from the Court's docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 8, 2011



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA